

CHANGE SHEET #2 – BOARD MEETING ITEM #5

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT
AN EMERGENCY CURTAILMENT AND REPORTING REGULATION FOR THE
SACRAMENTO-SAN JOAQUIN DELTA (DELTA) WATERSHED

Changes in ~~strikethrough~~ are previously proposed deletions to the existing sections of Title 23, Division 3, Chapter 2, Article 24 of the California Code of Regulations that were identified in the draft emergency regulation released on July 30, 2021.

Changes in underline are previously proposed additions to proposed sections of Title 23, Division 3, Chapter 2, Article 24 of the California Code of Regulations that were identified in the draft emergency regulation released on July 30, 2021.

Changes in ~~red double strikethrough~~ are new deletions made since the draft emergency regulation was released on July 30, 2021.

Changes in red double underline are new additions made since the draft emergency regulation was released on July 30, 2021.

On page 1, modify section 876.1, subdivision (a) as follows:

- (a) This section applies to direct diversions and diversions to storage, of natural and abandoned flows, in the Delta Watershed as defined in section 877.1. ~~This section also applies to the redirection of water released from storage in the Delta Watershed, except to the extent authorized by a water right or contract.~~

On page 3, modify section 876.1, subdivision (e) as follows:

- (e) Upon receipt of an initial order pursuant to this section, a water right holder or claimant may submit information to the Deputy Director to: support a proposed correction to the water right priority date of the right for which the order was issued; or propose that curtailment may not be appropriate for a particular diverter or in a specific stream system as demonstrated by verifiable circumstances, such as a system that has been adjudicated ~~and~~ ~~or~~ is disconnected and curtailment would not make water available to serve senior downstream water rights or claims. Any such proposals and all supporting information and analysis shall be submitted to the Deputy Director within 14 days of receipt of the initial order. Proposals, supporting information, and analyses submitted more than 14 days after receipt of an initial order may be considered to support corrections in advance of future curtailments. The Deputy Director will review timely-provided proposals and supporting information and analyses as soon as practicable, make a determination regarding the proposal, and inform the affected water right holder or claimant of any appropriate update for purposes of water diversion curtailment orders. Before making any determinations within the Legal Delta, the Deputy Director will consult with the Delta Watermaster.

**08/03/2021 BOARD MEETING – ITEM #5
CHANGE SHEET #2 (READ INTO RECORD)**

On page 4, modify section 876.1, subdivision (g) as follows:

(g) The Deputy Director will temporarily suspend curtailments for some diverters, in order of water right priority, when water availability increases or is projected to increase due to precipitation and runoff events or due to reductions in demand, and the Deputy Director determines that such increased water availability warrants a suspension. The Deputy Director will consider the best available information, such as water supply forecasts from the California Department of Water Resources and other similarly reliable sources, to determine the geographic scope and duration of suspension. By no later than October 1, 2021, and by no more than every 30 days thereafter, the Deputy Director will promptly consider reliable and publicly available information that supports suspension, extension of suspension, or reimposition of curtailments of water diversions, and will publicly issue an update explaining any decisions resulting from the consideration of that information.

On page 15, modify section 879, subdivision (d)(1)(B) as follows:

(B) Ceasing diversions of natural and abandoned flow when curtailments are ordered, except to the extent that continuing diversions are authorized in accordance with section 878, 878.1 or 878.2, ~~and ceasing rediversions of water released from storage, except to the extent authorized by a water right or contract.~~

On page 16, modify section 879, subdivision (d)(6) as follows:

(6) In determining whether to impose reporting requirements under this subdivision, the Deputy Director and Delta Watermaster will consider the need for the information and the burden of producing it, and will ~~take~~ make reasonable efforts to avoid requiring duplicative reporting of information that is already in the Board's possession.